

Note: The following proposal requests regulatory changes that are both statewide (see Proposal 56) and specific to the Central/Southwest Region. The board may take action at the November 2017 Statewide Regulations Meeting or defer taking action until the February 2018 Central/Southwest Region Meeting.

PROPOSAL 98 – 5 AAC 92.072. Community subsistence harvest hunt area and permit conditions. Modify the community subsistence harvest permit conditions as follows:

Amend 5 AAC 92.072. Community subsistence hunt area and permit conditions:

Throughout the regulation the term/phrase “a resident of a community or member of a group” is used to define those participating in the community subsistence hunt (CSH). The regulations should be amended to clarify that the CSH is for “communities”, not simply any “group” of individuals who are Alaska residents. The use of the term “group” diminishes the “community” aspect of the hunt. A “group” can be those who only get together over the internet. A “group” can consist of those who only get together once a year for a potluck that includes a dish or two containing a little moose or caribou taken by a member of the group. The use of the term “group” encourages the kind of abuse that has occurred in the CSH. It takes a “community” to practice the community pattern of C&T (customary and traditional) uses that the Board of Game (board) has set as a condition for participating in the hunt for the Copper Basin area (5 AAC 92.074(d)). Therefore, the term “group” should be stricken from the regulation and replaced when necessary with “community.”

The term “resident” should also be stricken, because a “community” of subsistence users may not all be residing in the same physical location. For example, the community composed of the eight Ahtna villages includes some Alaska residents who do not live in the area, but who continue to hunt, fish and gather subsistence resources in the area and to participate in the Ahtna customary and traditional hunting way of life, including widespread sharing, teaching traditional knowledge and values, potlatches, etc. Therefore, the term “community members” should be uniformly applied throughout the regulation when describing who is eligible to participate in the CSH. The term “residents” should be stricken.

Likewise, when describing the CSH administrator, the term “community administrator” should be used throughout the regulations. The term “group” should be deleted when the regulation references CSH administration.

Additionally amend 5 AAC 92.072. Community subsistence harvest hunt areas as follows:

(a) The commissioner or the commissioner's designee may, under this section and 5 AAC 92.052, issue community-based subsistence harvest permits and harvest reports for big game species where the Board of Game (board) has established a community harvest hunt area under (b) of this section and 5 AAC 92.074. **Prior to issuing a permit and harvest reports for the community hunt area described in 5 AAC 92.074(d), the commissioner or designee shall determine, on the basis of an application form developed by the department, that the community applying for the permit conforms with the definition of “community” set forth in section (i) of this regulation.**

...

(c) If the board has established a community harvest hunt area for a big game population, [RESIDENTS] **members** of the community [OR MEMBERS OF A GROUP] may elect to participate in a community harvest permit hunt in accordance with the following conditions:

(1)(D) make efforts to ensure that the applicable customary and traditional use pattern described by the board and included by the department as a permit condition, if any, is observed by subscribers [INCLUDING MEAT SHARING]; the applicable board finding and conditions will be identified on the permit; this provision does not authorize the community [OR GROUP] administrator to deny subscription to any community [**RESIDENT OR GROUP member who agrees to practice the applicable customary and traditional use pattern as practiced by the community;**

...

(c)(3) in addition to the requirements of (1) of this subsection, the community [OR GROUP] representative must submit a complete written report, on a form provided by the department, for the community [OR GROUP] participating in the community harvest hunt area described in 5 AAC 92.074(d), that describes efforts by the community [OR GROUP] to observe the customary and traditional use pattern described by board findings for the game populations hunted under the conditions of this community harvest permit; in completing the report, the representative must make efforts to collect a complete report from each household that is a member of the community [OR GROUP] that describes efforts by the household to observe the customary and traditional use pattern using the eight elements described in this paragraph; a copy of all household reports collected by the community [OR GROUP] representative shall be submitted to the department as a part of the representative's written report; complete reports must include information about efforts to observe the customary and traditional use pattern of the game population, as follows:

(A) Element 1: participation in a long-term, consistent pattern of noncommercial taking, use, and reliance on the game population: the number of years of taking and use of the game population; and involvement of multiple generations in the taking and use of the game population; and use of areas other than the community subsistence hunt area for harvest activities;

(B) Element 2: participation in the pattern of taking or use of the game population that follows a seasonal use pattern of harvest effort in the hunt area: the months and seasons in which noncommercial harvest activities occur in the hunt area;

(C) Element 3: participation in a pattern of taking or use of wild resources in the hunt area that includes methods and means of harvest characterized by efficiency and economy of effort and cost: costs associated with harvests; and methods used to reduce costs and improve efficiency of harvest; and number of species harvested during hunting activities;

(D) Element 4: participation in a pattern of taking or use of wild resources that occurs in the hunt area due to close ties to the area: number of years of taking and use of the game population; and involvement of multiple generations in the taking and use of the game population; and variety of harvesting activities that take place in the hunt area; and evidence of other areas used for harvest activities;

(E) Element 5: use of means of processing and preserving wild resources from the hunt area that have been traditionally used by past generations: complete listing of the parts of the harvested game that are used; and preservation methods of that game; and types of foods and other products produced from that harvest;

(F) Element 6: participation in a pattern of taking or use of wild resources from the hunt area that includes the handing down of knowledge of hunting skills, values, and lore about the hunt area from generation to generation: involvement of multiple generations in the taking and use of the game population; and evidence of instruction and training;

(G) Element 7: participation in a pattern of taking of wild resources from the hunt area in which the harvest is shared throughout the community: amount of harvest of the game population that is shared; and evidence of a communal sharing event; and support of those in need through sharing of the harvest of the game population; and

(H) Element 8: participation in a pattern that includes taking, use, and reliance on a wide variety of wild resources from the hunt area: the variety of resource harvest activities engaged in within the hunt area; and evidence of other areas used for harvest activities.

(c)(4) the department may waive the annual reporting requirement and institute a five-year reporting period for any community which has demonstrated, through reports submitted annually over a five-year period, a high degree of participation in the customary and traditional community use pattern described in board findings for the area.

...

(f) The department may disapprove an application for a community subsistence harvest permit from a community [OR GROUP] that has previously failed to comply with requirements in (c)(1) and (3) of this section. The failure to **submit a** report by the community [OR GROUP] representative under (c) [(1) AND] (3) of this section **which demonstrates, pursuant to criteria and a scoring system established by the department, that the community is observing the customary and traditional use pattern described by board findings for the game populations hunted under the conditions of this community harvest permit shall** [MAY] result in denial of a community subsistence harvest permit for the area during the following **two** regulatory years **for all members of the community.** The department must allow a representative the opportunity to request a hearing if the representative fails to submit a complete report as required under (c)(1) and (3) of this section. A community [OR GROUP] aggrieved by a decision under this subsection will be granted a hearing before the commissioner or the commissioner's designee, if the community [OR GROUP] representative or **a member of the community** makes a request for a hearing in writing to the commissioner within 60 days after **receiving notice from the department that the community will be denied a community subsistence harvest permit for the following year.** [THE CONCLUSION OF THE HUNT FOR WHICH THE PERSON FAILED TO PROVIDE A REPORT]. The commissioner may determine that the penalty provided under this subsection will not be applied if the community [OR GROUP] representative **or member** provides the information required on the report **sufficient to satisfy the department's requirements** and if the commissioner determines that

(1) the failure to provide the report was the result of unavoidable circumstance; or

(2) extreme hardship would result to the community [OR GROUP] **or member.**

...

(h) Nothing in this section authorizes the department to delegate to a community [OR GROUP] representative determination of the lawful criteria for selecting who may hunt, for establishing any special restrictions for the hunt and for the handling of game, and for establishing the terms and conditions for a meaningful communal sharing of game taken under a community harvest permit, **except that a community representative shall require participating community members to observe the customary and traditional use pattern described by board findings for the game populations hunted as that pattern of use is practiced by the community.**

...

(i) In this section,

(2) a "community" [OR "GROUP"] is “a group **of 25 or more individuals** [OF PEOPLE] linked by a common interest in, and participation in **a consistent pattern of noncommercial taking, use, and reliance on a wide diversity of subsistence resources in [,] an identified area [AND THE WILDLIFE POPULATIONS IN THAT AREA,] that provides substantial economic, cultural or social, and nutritional elements of the subsistence way of life of the community and its members** [IS CONSISTENT WITH THE CUSTOMARY AND TRADITIONAL USE PATTERN OF THAT WILDLIFE POPULATION AND AREA AS DEFINED BY THE BOARD].

What is the issue you would like the board to address and why? This proposal: 1) amends the regulation to delete the terms “group” and “residents” and replaces these terms with the term “community” and “members”; 2) amends the authority of the Department of Fish and Game (department) to issue community-based subsistence harvest permits and harvest reports for the Copper Basin area (5 AAC 92.074(d)) to require the department to create an application form that establishes that the applicant is a “community” as that term is defined in the regulation; 3) amends the definition of “community” to make it clear that groups applying for and participating in the CSH share a common interest and participation in the pattern of C&T community use identified by the board for wildlife resources in that area and which provides substantial economic, cultural or social, and nutritional elements of the subsistence way of life of the community and its members; 4) requires the department to develop and apply a scoring system for annual reports from CSH administrators for the CSH in the area described in 5 AAC 92.074(d), and to disqualify a community and all members of the community for two years from participating in a CSH in this area if the annual report fails to satisfy the minimum score developed by the department for demonstrating that a community is observing the community pattern of subsistence use that is a condition of the permit for the area; 5) allows the department to waive the annual CSH administrator reporting requirement for the area described in 5 AAC 92.074(d) if a community has established a solid record of practicing the applicable C&T pattern of use, and replace it with a report once every five years; and 6) allows a CSH administrator to require all members of the CSH community to observe the C&T pattern of use recognized by the board in establishing the CSH, including specific practices of the community that are consistent with the pattern of use recognized by the board.

PROPOSED BY: Ahtna Tene Nene’

(HQ-F17-026)
